



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

US EPA RECORDS CENTER REGION 5



477920

JUN 26 2014

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL RETURN
RECEIPT REQUESTED

Mr. Lindy Nelson
U.S. Department of the Interior
Office of Environmental Policy and Compliance
U.S. Custom House, Room 244
Philadelphia Region
200 Chestnut Street
Philadelphia, PA 19106

Re: The U.S. Smelter and Lead Refinery, Inc. Superfund Site, East Chicago, Indiana

Dear Mr. Nelson:

I am writing to notify the U.S. Department of the Interior in its capacity as the federal natural resource trustee that the U.S. Environmental Protection Agency (EPA) has begun negotiations with potentially responsible parties regarding the implementation of the remedial design and remedial action for certain portions of the U.S. Smelter and Lead Refinery, Inc. Superfund Site in East Chicago, Indiana (the Site). This notification is made in accordance with the National Contingency Plan and Section 122(j)(1) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9622(j)(1).

The Site was listed on the National Priorities List on April 8, 2009. Between 2009 and 2012, EPA conducted a Remedial Investigation and Feasibility Study (RI/FS). The RI/FS formed the basis for the issuance by EPA of a Record of Decision. On November 30, 2012, EPA issued its Record of Decision for the Site, which describes the remedial actions that should be taken at a portion of the Site (Operable Unit 1) to protect human health and the environment.

On January 14, 2014, EPA sent a Supplemental General Notice Letter to representatives of Atlantic Richfield Company (ARC) and E.I. du Pont de Nemours and Company (DuPont), a copy of which is enclosed. On the same day, EPA and the U.S. Department of Justice sent ARC and DuPont a confidential settlement offer. On February 20, 2014, ARC and DuPont sent the government a confidential response. Negotiations between EPA, DOJ, ARC, and DuPont are on-going. The State of Indiana is also a party to the negotiations.

EPA is not aware of any releases or threatened releases of hazardous substances that may have resulted in damages to natural resources under the trusteeship of the United States within Operable Unit 1; however, we are open to discussing this issue at your convenience. EPA

anticipates performing an RI/FS for Operable Unit 2 in the not too distant future. Operable Unit 2 includes the banks of the Grand Calumet River, a water of the United States. EPA will advise the Department of the Interior if the RI/FS identifies damage to any natural resources under the trusteeship of the United States.

If you have any questions, please do not hesitate to contact me. I may be reached at (312) 353-3804 or kaiser.steven@epa.gov.

Sincerely,



Steven P. Kaiser
Associate Regional Counsel

Enclosure

Cc: Annette Lang (DOJ)
Michael Berkoff (EPA)
Superfund Records Center (EPA)



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JAN 14 2014

REPLY TO THE ATTENTION OF:

SUPPLEMENTAL GENERAL NOTICE LETTER

URGENT LEGAL MATTER

PROMPT REPLY NECESSARY

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Atlantic Richfield Company
c/o Michael Elam
Barnes & Thornburg
One North Wacker Dr.
Suite 4400
Chicago, IL 60606-2833

E.I. du Pont de Nemours and Company
c/o Bernard J. Reilly
Corporate Counsel
DuPont Building
1007 Market St.
Wilmington, DE 19898

RE: Supplemental General Notice of Potential Liability and Request to Participate in Remedial Action Implementation Negotiations Relating to Operable Unit 1 of the United States Smelter and Lead Superfund Site, East Chicago, Indiana ("USS Lead Site")

Dear Sir or Madam:

This letter supplements a previous general notification to Atlantic Richfield Company (ARCO), and E.I. du Pont de Nemours and Company (DuPont) of potential liability, as provided by Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9607(a), as amended (CERCLA), that you may incur or may have incurred with respect to the above-referenced Site. See Letter from W. Carney, EPA, to S. Palmer, ARCO (April 24, 2006); Letter from W. Carney, EPA, to B. Reilly, DuPont (April 24, 2006). This letter also notifies you of potential response activities at Operable Unit 1 (OU1) of the Site and asks that you participate in negotiations regarding the performance of response actions at OU1.

This letter constitutes general notice of potential liability under CERCLA; it is not intended to serve as special notice under CERCLA Section 122(e)(1), 42 U.S.C. § 9622(e)(1). At this time, EPA has decided that it is premature to invoke the Section 122(e) special notice procedures due to the currently cooperative relationship between EPA, ARCO, and DuPont; our view that the special notice procedures are not necessary to facilitate an agreement among us at this time; and the EPA's current preference for taking the lead in undertaking the remediation of the hundreds

of residential properties encompassed within the Site. If, however, ARCO and DuPont are unable to provide a good faith offer by February 14, 2014, we likely will invoke the special notice procedures or avail ourselves of any other appropriate mechanism to move forward with remediation of the Site. In addition, special notice procedures or other appropriate mechanisms to move forward with remediation of the Site will also likely be exercised if an agreement in principle on the terms of partial settlement involving OU1 is not reached shortly after receipt of the good faith offer.

The decision, at this time, not to invoke the special notice procedures does not preclude ARCO and DuPont from entering into discussions with EPA regarding participation in response activities at the Site. EPA encourages all offers of settlement of this matter and cleanup of the Site.

SUPPLEMENTAL GENERAL NOTICE OF POTENTIAL LIABILITY AND SUMMARY OF ACTIVITIES AT THE SITE

EPA has documented the release or threatened release of hazardous substances, pollutants, and contaminants at the USS Lead Site. EPA has spent public funds on actions to investigate such releases or threatened releases and on November 30, 2012, issued a Record of Decision that sets forth the selected remedial action for OU1 of the Site. This Record of Decision calls for the removal and off-site disposal of a significant volume of contaminated soil containing lead in excess of 400 mg/kg and arsenic in excess of 14.1 mg/kg.

Under Sections 106(a) and 107(a), 42 U.S.C. §§ 9606(a) and 9607(a), Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6973, as amended (RCRA), and other laws, potentially liable parties may be ordered to perform response actions deemed necessary by the government to protect the public health, welfare or the environment, and may be liable for all costs incurred by the government in responding to any release or threatened release at the Site. Such actions and costs may include, but are not limited to, expenditures for conducting a Remedial Investigation/Feasibility Study (RI/FS), conducting a Remedial Design/Remedial Action (RD/RA), and other investigation, planning, response, oversight, and enforcement activities. In addition, potentially liable parties may be required to pay for damages for injury to, destruction of or loss of natural resources, including the cost of assessing such damages.

As we indicated in our letters dated April 24, 2006, EPA has evaluated information in connection with the investigation of the Site. Based on this information, EPA believes that ARCO and DuPont may be liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a). Specifically, EPA has reason to believe that ARCO and DuPont contributed to the contamination at the Site as an owner/operator and/or as one who arranged for the disposal, treatment, or transportation of contamination that came to be located at the Site.

Since our April 24, 2006 letters, EPA has completed a Site Evaluation of OU1, performed two removal actions at OU1, conducted an RI/FS of OU1, and issued the above-referenced ROD. Significant sampling of OU1 has taken place in the course of these activities. Additional information relating to the Site may be found at www.epa.gov/Region5/sites/USSlead/index.html.

As of August 31, 2013, EPA has incurred costs of \$5,225,934 for activities involving OU1. For purposes of this letter, these costs will be referred to as "Past Costs."

ADMINISTRATIVE RECORD

Pursuant to CERCLA Section 113(k), 42 U.S.C. § 9613(k), EPA has established an administrative record that contains documents that form the basis of EPA's decision on the selection of the response action for OU1. That administrative record is available to the public for inspection at the EPA Records Center at the EPA's Regional Office in Chicago (77 W. Jackson Blvd.) and the East Chicago Public Library, 2401 E. Columbus Avenue, East Chicago, Indiana.

INITIAL RESPONSE AND GOOD FAITH OFFER

You are encouraged to contact EPA within seven business days of your receipt of this letter to indicate your willingness to participate in negotiations concerning the performance of response actions and the payment of costs relating to OU1. If you express a willingness to participate in such negotiations, we will confer with you by no later than January 31, 2014. You will then have until February 14, 2014, to provide EPA with a written good faith settlement offer. If EPA does not receive a timely response, EPA will assume that you do not wish to negotiate a resolution of your potential liability for the Site.

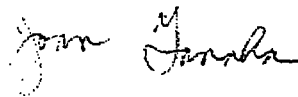
A good faith settlement offer would need to include a written proposal either agreeing to pay for EPA's costs relating to the response action or demonstrating your qualifications and willingness to conduct the response action or proposing some combination of work and payment of costs.

CONCLUSION

The factual and legal discussions contained in this letter are intended solely for notification and information purposes. They are not intended to be and cannot be relied upon as final EPA positions on any matter set forth herein.

If you have any questions pertaining to this matter, please direct them to Annette Lang at the Department of Justice (202 514-4213) or Steven Kaiser at U.S. EPA (312 353-3804).

Sincerely,



Joan Tanaka
Chief, Remedial Response Branch 1
Superfund Division

